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Chairman: Mr. LAMPTEY (Ghana)

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The meeting was called to order at 10.35 a.m.

AGENDA ITEM 133: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (A/49/325)

1. The CHAIRMAN drew attention to the report of the Secretary-General contained in document A/49/325 and asked the Committee to hold consultations to determine the future course of action which it wished to recommend to the General Assembly.

AGENDA ITEM 134: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (A/49/255 and Corr.1 and A/49/255/Add.1)

2. Mr. MARTENS (Federal Republic of Germany) said that the need for detailed rules of humanitarian law, unnecessary in an ideal world, had been clearly demonstrated by the recent escalation of internal and international armed conflicts. In particular, the campaigns of ethnic cleansing in the former Yugoslavia and genocide in Rwanda were proof of the vital importance of a wider acceptance of humanitarian law, as codified in the Geneva Conventions and their additional Protocols. The Protocols were essential complements to the Conventions, ensuring the necessary protection of civilians and covering the important area of non-international armed conflicts, only marginally covered under article 3 of each of the four Conventions. Germany had ratified both Protocols in 1991 and urged all States which had not yet done so to take the same step.

3. Ratification was only a starting-point, however, and particular importance attached to the subsequent implementation of the provisions of the Protocols. In that regard, Germany welcomed the International Fact-Finding Commission established under article 90 of Additional Protocol I and hoped that the work of the Commission would foster compliance with humanitarian norms. In addition to accepting, along with 40 other States, the competence of the Commission, Germany had agreed at the conference on the financing of the Commission, held in Berne in September 1994, to support 22 per cent of the Commission's budget, making it the largest financial contributor. He urged other States to show similar support for the Commission's work.

4. In view of the need for the further development and constant upgrading of humanitarian law, he commended the appropriate efforts of the Swiss Government and the International Committee of the Red Cross (ICRC), in particular the International Conference for the Protection of War Victims, held in Geneva from 30 August to 1 September 1993, and the forthcoming 26th International Conference of the Red Cross and Red Crescent. His Government would remain actively involved in those and all other efforts to strengthen humanitarian law.

5. Mr. SIDI ABED (Algeria) said that the four Geneva Conventions of 1949, strengthened by the additional Protocols, constituted the foundations of international humanitarian law, respect for which should be one of the pillars of the international order. It was all the more regrettable, therefore, that the norms of that law continued to be violated in various regions of the world.

6. While he was encouraged by the increasingly wide acceptance of the Conventions and their additional Protocols, he noted that acceptance of the rules of international humanitarian law should not be considered an end in itself but should be supported by active implementation. Indeed, the strengthening of international law and its effective implementation with a view to preventing armed conflicts was one of the objectives of the United Nations Decade of International Law.

7. Algeria commended ICRC for its continued efforts to promote the acceptance and dissemination of international humanitarian law and, in particular, the additional Protocols. For its part, Algeria had acceded to the four Geneva Conventions and had ratified the additional Protocols in 1989. In addition, as a country firmly committed to humanitarian law, it was gratified by the acceptance of the competence of the International Fact-Finding Commission established under article 90 of Protocol I and would spare no effort for the further promotion and dissemination of the provisions of the additional Protocols and their noble aims.

8. Mr. ODEVALL (Sweden), speaking on behalf of the five Nordic countries, noted with satisfaction that most States had become, or were in the process of becoming, parties to the Protocols, and he expressed confidence that the Protocols would soon become universally accepted. While many of the Protocols' provisions reflected customary law, other provisions represented a progressive development of international law, and recent developments had demonstrated the vital importance of adherence to such law in armed conflicts and the need for wide acceptance of the rules laid down in the Protocols.

9. The Nordic countries considered that the International Fact-Finding Commission, which included representatives from those countries, constituted a crucial element of Additional Protocol I. While the Commission was to examine grave breaches of the Conventions and the Protocol, it also aimed to use its good offices to restore respect for those instruments.

10. Despite the growing acceptance of the additional Protocols, flagrant violations of their provisions and of international humanitarian law in general continued, demonstrating the need for their strict implementation. The suffering caused by the wars in the former Yugoslavia and in Rwanda could have been lessened if international humanitarian law had been applied.

11. He drew attention to the declaration adopted by the 1993 International Conference for the Protection of War Victims, calling for the more effective implementation of humanitarian law, which was of particular relevance to international conflicts or to so-called "mixed conflicts". In addition, a broadly representative conference of experts was to be convened in Geneva in 1995 to promote full compliance with humanitarian law. In that context, the

(Mr. Odevall, Sweden)

Nordic countries appealed to all States parties to the Geneva Convention and its additional Protocols to implement and comply with the provisions of those instruments, most of which reflected customary law.

12. Mr. MOTSYK (Ukraine) said that his country had ratified the two additional Protocols and recognized the competence of the International Fact-Finding Commission, as stated in the Secretary-General's report contained in document A/49/255.

13. Such recent events as the conflicts in the former Yugoslavia and in Rwanda demonstrated the vital importance of the Conventions and their additional Protocols for the provision of protection during armed conflicts and the coordination and clarification of customary law. Referring in particular to the provisions pertaining to environmental protection, he pointed out that, under article 85, paragraph 5, of Protocol I, grave breaches of the Conventions and the Protocol were regarded as war crimes.

14. Noting that armed conflicts could occur between parties which had not yet ratified the additional Protocols, he said that arrangements should be made to enable such parties to declare their intention to ratify, by which they would recognize the provisions of the Protocols. Finally, Ukraine called upon all States to recognize the competence of the International Fact-Finding Commission, to which it attached great importance.

15. Mr. HAFNER (Austria) said that, since the late nineteenth century, many attempts had been made to exclude the use of force from international relations and to declare it a grave international crime in violation of jus cogens. In addition, efforts to codify procedures to deal with States which still resorted to the use of force had borne fruit in the two additional Protocols. The merits of the additional Protocols were beyond dispute: they served both to upgrade the rules of warfare and to widen their scope. Accordingly, Austria was pleased to have been able to accede to both Protocols. Despite such efforts, however, the international community had failed to exclude the use of force from its relations: indeed, the incidence of armed conflicts in the world had even increased, demonstrating the need to move on from the elaboration of rules of international law to the practical implementation of those rules. While the text of the Protocols could be further improved, the need for such improvement should not be used by States to delay strict implementation of the rules.

16. His delegation regretted that some States had not become parties to the Protocols, and it stressed that, while some provisions might require further refinement, the advantages of the Protocols far outweighed their minor deficiencies. Failure by States to accede to those instruments threatened to undermine the authority of United Nations resolutions calling for respect of international humanitarian law.

17. To that end, the creation of the International Fact-Finding Commission was an important contribution, and Austria welcomed its recognition by 41 States. He wondered, however, why no cases had as yet been brought before the Commission and why States continued to establish new bodies rather than have recourse to

(Mr. Hafner, Austria)

the Commission. The Commission was a truly impartial body committed only to the objectives underlying international humanitarian law and it therefore deserved wider acceptance by States.

18. Mr. ROGACHEV (Russian Federation) said that there was a heightened awareness in the international community of the importance of international humanitarian law in reducing the savagery of armed conflicts and improving the lot of the victims of those conflicts. The Russian Federation thus welcomed the growing recognition of and increasing accession to the additional Protocols and called on States parties to make a declaration, under article 90 of Protocol I, recognizing the competence of the International Fact-Finding Commission. A genuine likelihood that the Commission could now begin functioning would strengthen the enabling machinery in the sphere of the law of armed conflicts, and would be one of the factors encouraging parties to a conflict to comply more closely with that law. The multifaceted humanitarian initiative taken in the Russian Federation in 1993 had made a substantial contribution to the success of the International Conference for the Protection of War Victims. Together with a large number of interested States, the Russian Federation continued to work intensively on the follow-up to that conference.

19. In recent months the Russian Federation had taken a number of important steps to promote the dissemination of knowledge concerning international humanitarian law. A significant event in that context had been the commemoration, in December 1993, of the 125th anniversary of the 1868 Declaration of St. Petersburg to the effect of prohibiting the use of certain projectiles in wartime, still one of the pillars of contemporary international humanitarian law. An international conference convened in Moscow in May 1993 on humanization of military action and the reform of the armed forces had constituted an important measure for enhancing the prestige of humanitarian law, especially in the Russian Federation. The Russian Federation was also hoping for a significant practical effect as a result of measures such as the transformation of the Military and Political Academy into a Humanitarian Academy of the Armed Forces and the adoption of a new national military charter on the laws and customs of war. The Russian Federation was aware, from its own tragic experience, of how cruel and merciless wars could be, and thus regarded it as its duty to participate in their prevention and, should such conflicts arise, to secure compliance with generally accepted humanitarian principles and laws in armed conflict. It thus hoped that the number of parties to the additional Protocols would increase and that those international instruments would take on a universal character.

20. Ms. CARAYANIDES (Australia) said that Australia had ratified Protocol I and Protocol II on 21 June 1991, and that on 23 September 1992 it had made a declaration pursuant to article 90 of Protocol I recognizing the competence of the International Fact-Finding Commission. Australia took its obligations to further the law in the Geneva Conventions and additional Protocols very seriously indeed, and worked with the International Committee of the Red Cross (ICRC) and other Governments to secure the same sincerity of adherence from all other countries. It was greatly concerned at the recent alarming decline in the effectiveness of, and international respect for, the principles of international

(Ms. Caravanides, Australia)

humanitarian law embodied in the Geneva Conventions and additional Protocols. Increasing evidence of deliberate and systematic breaches of international humanitarian law had drawn the attention of the international community to the need to cooperate in elaborating mechanisms to strengthen accession to and development of that law.

21. To that end, high-level delegations from 160 States, including Australia, had attended the International Conference for the Protection of War Victims. The main objectives of the conference had been to increase awareness of the suffering caused by violations of international law, and to reiterate the need to respect and strengthen those laws. The conference had resulted in a consensus Final Declaration, which, inter alia, condemned a wide range of breaches of international humanitarian law, including attacks on civilians, and focused on the suffering caused by those breaches.

22. Australia had been working closely with other countries to ensure that the Final Declaration led to the development of practical recommendations, that it was seen as having world-wide application and that its fundamental principles were embraced by all Governments and peoples. With that goal in mind, a Regional Conference on Humanitarian Law would be held at the Australian Defence Force Academy in Canberra from 12 to 14 December 1994, with support from the Australian Red Cross and the Australian Defence Studies Centre. Using the Final Declaration of the Conference on war victims as its point of reference, the Regional Conference would identify and explore fundamental issues such as the question of enforcement, the contribution of international humanitarian law to peace-keeping and peacemaking, the relationship between the various international humanitarian law conventions and the existing norms of international humanitarian law, the problem of sexual violence and crimes against women and children generally in situations of armed conflict, the protection of cultural property and the environment, the establishment of mechanisms for improving the plight of civilians, prisoners of war and refugees, and the removal of mines from post-war zones. The participants would represent the different military and cultural traditions of the Asia-Pacific region, and would also include a wide range of other academic, Red Cross and civilian experts. A key aim of the Regional Conference would be to develop a body of ideas and recommendations which could be fed into the work of the open-ended group of experts established pursuant to the Final Declaration of the Conference on war victims and other key humanitarian law forums such as the forthcoming International Conference of the Red Cross and Red Crescent.

23. Australia noted with pleasure that in 1994 five States had ratified the additional Protocols of 1977 or made declarations acknowledging that they were bound by them, and that a further three States had lodged declarations under Protocol I recognizing the competence of the International Fact-Finding Commission. It urged all States that had not yet ratified the Additional Protocols or accepted the competence of that Commission to take steps to do so.

24. Mr. PRANDLER (Hungary) said that his country had been a party to Protocols I and II since 12 October 1989, and had made the declaration provided for under article 90 of Protocol I and deposited it with the Government of the Swiss Confederation on 23 September 1991. His Government was following developments with regard to the International Fact-Finding Commission with great interest, and hoped that many countries would have recourse to it. He also drew attention to the new Act of Defence of the Republic of Hungary (Act No. CX/1993), which provided that soldiers must respect the rules of international law relating to armed conflicts and to the protection of the victims of war.

25. As the representative of Hungary, he had himself participated in the meeting convened by the Government of the Swiss Confederation from 6 to 8 September 1994 in Berne on the question of the financial and administrative rules of the International Fact-Finding Commission. That meeting had resulted in the drafting of a set of rules designed to further and promote the work of the Commission.

26. From 26 to 28 September 1994, a meeting of government experts on the protection of war victims, also convened by the Swiss Government, had discussed issues concerning promotion of and respect for international humanitarian law and, in particular, the protection of war victims. That meeting had led to the adoption by consensus of a document containing recommendations addressed to the next meeting of government experts on the protection of war victims, to be held in January 1995. His delegation believed that that document would enable participating States to draw up measures to promote greater protection of war victims. The discussion at that meeting had shown that, although consensus had been reached on the major directions to be taken in furthering international humanitarian law, many divergencies had still to be bridged, and would require further elaboration at the January 1995 meeting. As in the past, an important role could thus be played by the representatives of the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies. One major task of the forthcoming meeting would be the preparation of a report on the protection of war victims, to be presented to the 26th International Conference of the Red Cross and Red Crescent, to be held in Geneva in 1995. The Committee would recall that the Conference, scheduled to be held in Budapest in 1991, had had to be postponed sine die for political reasons. His delegation thus wished to stress that Hungary attached great importance to the successful convening of that Conference.

27. Mr. SEGER (Observer for Switzerland) welcomed the increase in the number of parties to the additional Protocols since the forty-seventh session of the General Assembly, and hoped that it would not be too long before those instruments were universally accepted. Yet it was not enough for the Committee to welcome new accessions every two years; for the fact could not be overlooked that the provisions of the Protocols were often not respected in international and domestic conflicts the world over. While more than two thirds of the world's countries were parties to a very complex system of rules for the protection of the victims of armed conflicts, the most basic humanitarian norms were often systematically violated. It was thus essential to insist on scrupulous respect for the rules of humanitarian law, and to strengthen mechanisms for monitoring their application and dissemination. In that context,

(Mr. Seger, Observer, Switzerland)

it was highly desirable that States should consider making the declaration under article 90 of Protocol I and having recourse to the International Fact-Finding Commission where appropriate.

28. The 1993 International Conference for the Protection of War Victims had reaffirmed the need to strengthen the implementation of international humanitarian law. The Conference had requested the Swiss Government to convene an open-ended intergovernmental group of experts to identify practical ways of promoting full respect for that law and application of its rules, and to prepare a report addressed to States and to the forthcoming International Conference of the Red Cross and Red Crescent. In response to that request, the Swiss Government would convene a meeting of that group from 23 to 27 January 1995 in Geneva. It had already invited a number of governmental experts to a preparatory meeting, which had completed its business on 28 September 1994. At the conclusion of that meeting, the experts had recommended that the debate in January 1995 should focus on nine issues, including: means of facilitating accession by States to international humanitarian law instruments; study of ways of clarifying the role of customary rules in that sphere; enhanced dissemination of international humanitarian law; the question of setting up an international body along the lines of ICRC to which States might report on their efforts to implement and disseminate international humanitarian law; and the attitude of the international community to violations of international humanitarian law, including the study of practical means of dealing with specific cases of violations of that law. It would be for the experts meeting in January 1995 to decide on appropriate follow-up to the suggestions made at the recent meeting, and to attempt to translate those recommendations into concrete action.

29. Mr. ZIMMERMANN (Observer, International Committee of the Red Cross (ICRC)) said that international humanitarian law applicable in armed conflicts would not be complied with until it had been accepted by one and all. With 135 States parties to Protocol I and 125 to Protocol II, two thirds of the world's States had embraced those treaties, while in other States the process of ratification was at an advanced stage. The States parties to the Protocols included great Powers as well as medium-sized and small countries, and represented all the world's regions and all major cultural traditions, religions and ethnic groups.

30. Recent armed conflicts confirmed the urgent need to strengthen protection for civilians, particularly women and children. That was true first and foremost in the field, in the context of saving human lives and limiting suffering; but it was also true in relation to other items on the agenda of the Sixth Committee, such as the plight of displaced persons and protection of the environment in times of armed conflicts. All those subjects indicated the importance and relevance of the provisions of the additional Protocols.

31. The 1993 International Conference for the Protection of War Victims had urged States to become parties to all the international humanitarian law treaties, and in particular the additional Protocols. Convinced that truly universal acceptance of the Protocols represented the first step towards increased protection for the victims of armed conflicts, ICRC called upon those States that had not yet acceded to the Protocols to do so without delay. ICRC

(Mr. Zimmermann, Observer, ICRC)

was grateful to the Sixth Committee for devoting time to the matter, and believed that the repeated appeals made to States by the General Assembly since 1977, inviting them to examine the additional Protocols with a view to formal acceptance, had been heeded.

32. However, accession to the Protocols was only the first step in a process leading ultimately to scrupulous fulfilment of the obligations incurred. That fulfilment required prior preparation, and the Protocols prescribed various measures to be taken at national level to that end. Those who had to comply with their provisions during a conflict, in particular those who bore arms, must receive appropriate training; legislation must be passed and administrative measures taken to ensure implementation. ICRC urged all States to pursue that task with diligence.

33. Recent conflicts had demonstrated how past violations that remained unresolved sowed the seeds of atrocities to come. However, of the 135 States parties to Protocol I, only 41 had thus far made the declaration recognizing ipso facto and without special agreement the competence of the International Fact-Finding Commission to inquire into any facts alleged to represent a grave violation of international humanitarian law and to facilitate the restoration of respect for the law. ICRC called upon the remaining States parties to Protocol I, and those still to become parties, to make that declaration.

34. Finally, ICRC wondered whether the scope of agenda item 134 could not in future be expanded to encompass all the main instruments of international humanitarian law. The Final Declaration of the International Conference for the Protection of War Victims had listed, in addition to the Geneva Conventions of 1949 and their additional Protocols, the 1981 Convention on Certain Conventional Weapons and its three Protocols, notably the one relating to anti-personnel mines; and the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict. A periodic review of the status of acceptance of all instruments of international humanitarian law would help ensure that they were accorded the attention they deserved.

AGENDA ITEM 135: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (A/INF/48/4; A/49/295 and Add.1 and 2)

35. Mr. CORELL (Under-Secretary-General, the Legal Counsel), introducing the reports of the Secretary-General contained in documents A/INF/48/4 and A/49/295 and Add.1 and 2, said that, since the first inclusion of the item on its agenda in 1980 at the request of the Nordic countries, the General Assembly had emphasized in successive resolutions the important role of diplomatic and consular missions and representatives, as well as of missions and representatives to international intergovernmental organizations and officials of such organizations, in the maintenance of international peace and the promotion of friendly relations among States. In those resolutions it had also requested States to report to the Secretary-General on serious violations of the protection, security and safety of diplomatic and consular missions and representatives. Reporting procedures in relation to such violations had first

(Mr. Corell)

been established under Assembly resolution 35/168 of 15 December 1980, and had been further elaborated in later resolutions. The present procedure had been adopted in resolution 42/154 of 7 December 1987.

36. The item had been considered by the Sixth Committee on a biennial basis since 1990. However, in accordance with General Assembly resolution 45/39, the Secretary-General had been requested to submit a report on the item on an annual basis. Accordingly, the Sixth Committee had before it the two relevant reports of the Secretary-General: A/INF/48/4, covering the period 19 September 1992 to 1 August 1993, and A/49/295 and Add.1 and 2, covering the period 1 August 1993 to 30 September 1994.

37. Both reports were structured in the same manner. Section I reproduced the relevant paragraphs of General Assembly resolution 47/31, which requested States to report serious violations of the protection of diplomatic and consular premises to the Secretary-General and requested the Secretary-General to submit to the General Assembly a report containing the communications received from States and an analytical summary of those reports. Section II included the analytical summary and the full text of the reports, a list of reminders from the Secretary-General to States which had failed to provide information on reported incidents within a reasonable period of time, and follow-up reports received in response to those reminders. Section III contained information on the state of ratification of and accession to the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963, and the respective optional protocols thereto, and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973.

38. The two reports contained 29 new cases of violations and provided additional information on previously reported cases. In addition, after submitting document A/49/295/Add.2, the Secretary-General had received a note from the Permanent Mission of the former Yugoslavia to the United Nations Office in Geneva concerning an incident which had occurred on United Nations premises in Geneva.

39. During the period August 1992 to September 1994, 14 States had become parties to the Vienna Convention on Diplomatic Relations: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Czech Republic, Georgia, Grenada, Guinea-Bissau, Kazakhstan, Namibia, Republic of Moldova, Slovakia, Suriname and the Former Yugoslav Republic of Macedonia, bringing the total number of States parties to 173; 12 States had become parties to the Vienna Convention on Consular Relations: Armenia, Azerbaijan, Bahrain, Croatia, Czech Republic, Georgia, Grenada, Kazakhstan, Namibia, Republic of Moldova, Slovakia and Viet Nam, bringing the total number to 151; 5 States had become parties to the Convention on the Prevention of Crimes against Internationally Protected Persons, including Diplomatic Agents: Antigua and Barbuda, Bosnia and Herzegovina, Croatia, Czech Republic, and Slovakia, bringing the total number to 87.

(Mr. Corell)

40. Those developments showed that States were increasingly aware of the need to strengthen the principles and rules of international law governing diplomatic and consular relations, thereby ensuring unimpeded diplomatic representation, which was one of the essential aspects of international law.

41. The CHAIRMAN thanked the Office of the Legal Counsel for its diligent efforts to implement the reporting procedures established by the General Assembly.

42. Mr. MARTENS (Germany), speaking on behalf of the European Union and Austria, said that the Union appreciated the efforts of the Office of the Legal Counsel to implement the reporting system established by the General Assembly and to transmit the reports received in a timely fashion. In that connection, he noted that States must be given adequate time to carry out thorough investigations of any incidents involving diplomatic and consular missions and representatives. Accordingly, they should be encouraged to submit interim reports in the case of investigations that were likely to take several months.

43. The number of reported attacks against diplomatic and consular missions and personnel had decreased in the past two years: 68 cases had been reported in 1992, while only 11 and 15 had been reported for 1993 and 1994, respectively. While that trend was laudable, the international community must continue to be on the alert. Attacks of varying degrees of seriousness against diplomatic and consular missions and personnel had continued. It was unfortunate that a substantial number of the reported attacks had either occurred on the territories of the European Union or other European countries or had been carried out against European citizens. One of the most recent and tragic incidents was the attack on 3 August 1994 against the French representative in Algiers, which had resulted in the death of five French officials and serious injury to another. Other recent incidents included two attacks against the British Embassy in Tehran in January 1994, which had resulted in substantial damage, and an explosion in front of the Israeli Embassy in London on 26 July 1994, which had caused significant damage and in which several people had been injured.

44. Turkish representatives, embassies and consulates in several European countries had been the target in a number of cases. Worthy of mention in that connection were the incidents at the Turkish Consulate General in Munich and the Turkish Consulate in Marseille, where a sizeable number of Turkish employees had been taken hostage, without serious injuries, and the assassination on 4 July 1994 of the Counsellor of the Turkish Embassy in Athens.

45. The European Union and Austria condemned those deplorable criminal acts, which had occurred in spite of the many measures taken by the host countries to protect the personnel involved. According to the Secretary-General's reports, the authorities concerned had made every effort to investigate those incidents and to prosecute those responsible for them.

46. The European Union and Austria vigorously condemned all attacks against diplomatic or consular or missions personnel, for which there could be no

(Mr. Martens, Germany)

justification, regardless of the policies of any particular State. Diplomatic and consular posts had to be protected against all types of attack, including vandalism and disturbance of the peace. In addition to their potentially devastating effects on individuals, such acts might also adversely affect international relations.

47. An adequate number of international instruments existed in the field of the protection of diplomatic and consular representatives and missions. General international law also provided principles and rules on that subject. It was to be hoped that States that had not yet done so would become parties to the relevant instruments. Even more importantly, States must comply fully with their existing obligations, and efforts to strengthen States' commitment in that respect should continue. Indeed, it was essential that States should scrupulously fulfil all their obligations, under general international law and under the relevant international conventions, with regard to diplomatic and consular relations.

48. Privileges and immunities were not granted for personal benefit but to ensure the smooth and effective exercise of diplomatic and consular functions. Sending States had the right to expect that their diplomatic and consular representatives would be adequately protected and their privileges and immunities strictly observed. At the same time, missions or representatives must not abuse their privileges and immunities and must respect the laws of the receiving State. The European Union would continue to cooperate on measures to deal with such abuses, which tended to undermine public acceptance of diplomatic privileges and immunities and could have serious consequences for international relations. At the same time, it did not favour a general restriction of diplomatic immunities. The Union remained committed to the use of all lawful means to prevent crimes against diplomatic and consular representatives and violations of their immunities and was prepared to help strengthen international cooperation to that end.

49. Mr. HAMAI (Algeria) said that 14 years after its inclusion on the agenda of the General Assembly, the question of effective measures to enhance the protection of diplomatic and consular missions and representatives had, unfortunately, lost none of its painful and, at times, tragic, relevance. The Secretary-General's report (A/49/295, Add.1 and 2) made it abundantly clear that the issue merited further consideration.

50. His Government wished to reaffirm its emphatic, unequivocal condemnation of all acts of violence against diplomatic and consular missions and representatives and officials of international organizations, regardless of who had committed them and where they had occurred. No considerations of any nature whatsoever, whether political, philosophical or religious, could justify such acts.

51. In addition to causing personal trauma and pain, such acts violated firmly established rules and practices of international law, undermining friendly relations between States and eroding the foundations on which diplomatic and consular relations were based.

(Mr. Hamai, Algeria)

52. The Secretary-General's report and news reports had made it clear that no region in the world was free from violence against diplomatic and consular missions and representatives. In the past two years, his own country had been witness to two such events. One was an attack against French officials, which had ended in tragedy. In that connection, he wished to invoke the memories of the victims of that barbaric act and to reiterate to their families the heartfelt sympathies of the Algerian authorities and people, whose tradition of hospitality clearly distinguished them from the bloodthirsty and xenophobic perpetrators of the act. In the second case, the two Arab diplomats involved had been released owing to the rapid and forceful action of the Algerian authorities.

53. Aware of its obligations under the Vienna Conventions, the Algerian Government had immediately adopted a series of measures to enhance the protection and security of diplomatic and consular missions and representatives in Algeria. Following a meeting in August 1994 between the Doyen of the diplomatic corps and regional doyens, the Minister for Foreign Affairs had agreed to adopt measures to enhance the protection of diplomatic and consular missions, in particular in the fields of diplomatic communication and transport. Discussions had been held subsequently at the Ministry of the Interior regarding ways to enhance security for diplomats and other foreigners residing in Algeria.

54. By adopting those measures, Algeria wished to demonstrate its commitment to its responsibilities under international law and to enhance its reputation as a hospitable and modern country, open to the world.

55. The persistence of acts of violence against diplomatic and consular missions and representatives proved that they were not simply linked to a particular set of circumstances. They were, instead, the direct consequence of a more general and even more devastating phenomenon, international terrorism, whose targets ranged from diplomatic personnel to simple citizens. No State could consider itself safe from such violence. Thus, any measures taken to protect diplomatic personnel should be viewed as part of the larger effort to combat acts of terrorism.

56. The international community must act firmly and effectively to stop the scourge of international terrorism. It must collectively denounce any Government which, at times even using the cover of diplomatic privileges, supported, encouraged, assisted or armed the perpetrators of terrorist acts.

57. Ms. MERCHANT (Norway), speaking on behalf of the five Nordic countries, said that she welcomed the fact that the question under consideration was reviewed regularly and that it encompassed the protection of diplomatic as well as consular representatives and premises.

58. The need to protect diplomatic representatives had long been recognized, and legal rules in that regard had been established by every known culture. Indeed, such protection was a cornerstone of the system of international cooperation: it served to maintain clear channels of communications between

(Ms. Merchant, Norway)

States, thereby ensuring the maintenance of international peace and security and facilitating the normal conduct of business between countries. It was a matter of course that representatives of States were also under a strict obligation to respect the laws and rules of the host State.

59. The Nordic countries were alarmed at the continuing acts of violence and harassment carried out against diplomatic and consular agents of foreign States and their premises. Preventive measures were still needed to enhance the security of such personnel and to ensure the unimpeded conduct of diplomatic relations.

60. The Nordic countries wished to emphasize the need for close cooperation between the sending and receiving States for the purpose of ensuring privileges and immunities. They appealed to all States that had not yet done so to become parties to the relevant international instruments. They wished also to draw attention to the reporting procedures on violations of the protection of diplomatic and consular premises and personnel, the guidelines for which had been set out in the resolutions concerning the item under consideration. They appreciated the Secretariat's efforts to implement those resolutions.

61. The Nordic countries intended to prepare a draft resolution on agenda item 135, which would be based on resolutions adopted in previous years. They would welcome any suggestions with regard to the planned draft resolution and hoped that the matter would be dealt with by consensus.

62. Mr. ENAYAT (Iran), speaking in exercise of the right of reply, said that the representative of Germany, speaking on behalf of the European Union and Austria, had referred to two attacks against the British Embassy in Tehran in January 1994. No such incident had been reported by the British Mission in Tehran. Thus, according to the information available to him, the allegation was unfounded.

63. In paragraph 14 of its note verbale, reproduced in A/49/295, the United Kingdom had referred to an incident which had taken place in February 1994 in which demonstrators had gained entrance to a reception hosted by the Iranian Embassy. That incident had taken place one month after the alleged incident *referred to by the European Union. He wondered why the United Kingdom had waited so long to provide information about that latter incident.

AGENDA ITEM 136: UNITED NATIONS DECADE OF INTERNATIONAL LAW

64. The CHAIRMAN said it was his understanding that the Committee wished to elect Mr. Martens (Germany) Chairman of the Working Group on the United Nations Decade of International Law. As he heard no objection, he declared Mr. Martens to be the Chairman of the Working Group.

65. The newly elected Chairman would determine the schedule of meetings, in consultation with the Bureau of the Sixth Committee and with the chairmen of the other working groups.

The meeting rose at 12.15 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

SIXTH COMMITTEE
7th meeting
held on
Thursday, 6 October 1994
at 10 a.m.
New York

SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. LAMPTEY (Ghana)

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The meeting was called to order at 10.35 a.m.

AGENDA ITEM 134: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued) (A/49/255 and Corr.1 and A/49/255/Add.1)

1. Mr. POLITI (Italy) reaffirmed his country's commitment to promoting the widest possible acceptance of international humanitarian law as codified by the four Geneva Conventions of 12 August 1949 and the Protocols additional thereto. Italy had ratified Additional Protocol I, relating to the protection of victims of international armed conflicts, and Additional Protocol II, relating to the protection of victims of non-international armed conflicts. Moreover, Italy was among the States which had made the declaration recognizing the competence of the International Fact-Finding Commission established pursuant to article 90 of Additional Protocol I.

2. While his delegation was pleased to note the increasing number of States acceding to the additional Protocols, it invited those States that had not yet ratified the Protocols or accepted the competence of the International Fact-Finding Commission to do so.

3. However, universal acceptance of the principles of international humanitarian law was not sufficient. It was essential to prevent violations of those principles and to provide effective ways and means of guaranteeing compliance when violations occurred. For that reason, his delegation commended the results of the International Conference for the Protection of War Victims, held in Geneva in September 1993, and looked forward to the next International Conference of the Red Cross and Red Crescent, scheduled for December 1995.

4. Recent preliminary discussions of ways of preventing breaches of international humanitarian law had indicated that substantial progress could be made by establishing a system of State reports on the implementation of humanitarian law, creating a network of consultative services on implementation available to States, and strengthening the education programmes designed to ensure better knowledge of the relevant principles. In that connection, the meeting of governmental experts scheduled for January 1995 would define a number of specific issues for reflection and review by States.

5. His delegation emphasized the importance of Security Council resolution 827 (1993) establishing the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. In Italy's view, the establishment of the International Tribunal was a landmark in the development of instruments for the implementation of international humanitarian law.

6. The International Institute of Humanitarian Law in San Remo, Italy, had recently sponsored a round-table discussion on current problems of international

humanitarian law, focusing on conflict prevention. That initiative showed, once again, the importance of the contribution made by the Institute to the study and development of international legislation in the humanitarian field.

7. Mrs. KUPCHYNA (Belarus) said that her country was a party to both additional Protocols and had also made the special declaration recognizing the competence of the International Fact-Finding Commission. Her country hoped that the number of States parties to the additional Protocols would continue to increase and called upon those States which had not yet done so to recognize the competence of the Commission.

8. An international conference on the development of international humanitarian law had been held in July 1994 in Minsk under the auspices of the Belarusian Red Cross. The conference, attended by participants from a number of countries members of the Commonwealth of Independent States, had worked out practical recommendations to be implemented on the national level.

9. The CHAIRMAN said that the Committee had concluded its consideration of the item.

AGENDA ITEM 135: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued) (A/INF/48/4; A/49/295 and Add.1 and 2)

10. Mrs. FERNANDEZ de GURMENDI (Argentina) strongly condemned all attacks against diplomatic and consular missions and representatives. Such acts not only constituted inadmissible assaults on the nationals and property of foreign States, but also directly affected international relations and impaired cooperation between States.

11. Her delegation noted with satisfaction the decrease in the number of such incidents recorded during the period covered by the report of the Secretary-General (A/49/295 and Add.1 and 2), especially at a time when conflicts were proliferating in many parts of the world. Her Government reaffirmed its commitment, in accordance with General Assembly resolution 47/31, to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations, and to continue to adopt practical measures to prevent any acts of violence in its territory.

12. While welcoming the accessions by new States to the Vienna Conventions on Diplomatic and Consular Relations, as reflected in chapter III of document A/49/295, her delegation wished to emphasize another aspect of the issue. Incidents occurring in Argentina and other parts of the world had revived her Government's concerns about abuses of diplomatic and consular privileges and immunities, especially where they involved serious acts of violence. It was important for the international community to stress the need for strict compliance with the provisions of the Vienna Convention, which gave diplomatic and consular missions and representatives privileges and immunities essential for the carrying out of their functions. At the same time, those instruments stressed the obligation of all persons who enjoyed such immunities and

privileges to respect the laws and regulations of the receiving State and not to interfere in its internal affairs. Those conventions also provided that diplomatic and consular premises should not be used in a manner inconsistent with diplomatic and consular functions.

13. Mr. SHESTAKOV (Russian Federation) said that strict observance of the universal norms of diplomatic law was an essential factor in ensuring international stability, building confidence between States and strengthening the basis of the international legal order. Since 1980, when the item had been placed on the General Assembly's agenda at the request of the Nordic countries, it had lost none of its relevance, as reflected in the report of the Secretary-General, which described a significant number of acts of violence against diplomatic representatives.

14. In its resolutions, the General Assembly urged States to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations. The international community was in no way to blame for the absence of such norms or the unwillingness of many States to become parties to the relevant international conventions. There was currently a sound international legal basis in that area, and a growing number of States were conscientiously helping to strengthen it. However, in view of the situation which had developed, the international community was also entitled to request those States which had not yet done so to accede to the existing international conventions.

15. At the same time, despite the broad array of international legal instruments and the number of States parties thereto, not all States complied strictly with their international obligations to ensure the protection, security and safety of diplomatic and consular missions and representatives. Privileges and immunities were granted not for the personal benefit of any one individual, but in order to enable diplomatic and consular functions to be carried out effectively. The sending State was entitled to expect that its representatives would be fully protected while, at the same time, such representatives must respect the laws of the receiving State.

16. In its resolution 47/31, the General Assembly recommended that States should cooperate closely with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives. His delegation noted with satisfaction that new forms of cooperation were constantly being developed. In that connection, his delegation drew attention to paragraph 7 of the above-mentioned resolution, which called upon States, in cases where a dispute arose, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General.

17. Mr. MOTSYK (Ukraine) said that the protection of diplomatic and consular missions and representatives had been a cornerstone of the system of international cooperation since its inception. Since 1980, when the item had first been placed on the General Assembly's agenda, it had been discussed on a

regular basis, a fact which underscored its relevance and urgency for both the international community and individual States.

18. His delegation strongly condemned the attacks against diplomatic and consular missions and representatives described in the report of the Secretary-General and believed that the perpetrators should be brought to justice.

19. At a time when his country was actively developing bilateral relations with other States, the question of the protection, security and safety of diplomatic and consular missions and representatives had acquired greater significance. In the past two years, Ukraine had opened more than 40 embassies and several consulates-general, while at the same time, almost 50 countries had opened diplomatic and consular missions in his country.

20. Ukraine fully complied with the provisions of the Vienna Conventions on Diplomatic and Consular Relations and of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. Ukraine hoped that States which had not yet done so would become parties to the relevant international legal instruments and that all States would adopt effective measures to strengthen the observance of their international obligations under diplomatic law.

21. Mr. AKAY (Turkey) said that his country, which had long been a target of international terrorism, attached great importance to the item under consideration. Terrorism was a crime against humanity; those who tolerated it or supported the perpetrators of such heinous acts were guilty of the same crime.

22. His country's policies for combating terrorism were in conformity with the provisions of the relevant international conventions and General Assembly resolutions. Acts of terrorism against a diplomatic or consular mission or its staff were penalized more severely in Turkey than elsewhere.

23. Turkey was a party to the Vienna Conventions on Diplomatic and Consular Relations and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. His Government called upon States to take all necessary steps to protect the safety and security of the diplomatic and consular missions in their territories and to comply with their obligations under the relevant instruments.

24. The fundamental conclusion which his delegation drew from the report of the Secretary-General was that the protection afforded by certain States to Turkey's missions and representatives was not commensurate with the threat they faced. His delegation urged the States in question to strengthen such measures and to enhance the level and effectiveness of multinational cooperation in that area.

25. Mr. da COSTA (Angola) said that his Government strongly condemned all acts of violence against diplomatic and consular missions and their representatives,

as well as against missions and representatives to international intergovernmental organizations and officials of such organizations.

26. Receiving States had an obligation to ensure the protection of diplomatic and consular representatives and their premises as well as missions and their representatives to international organizations.

27. His Government observed, implemented and enforced the principles and rules of international law governing diplomatic and consular relations and ensuring the protection, security and safety of diplomatic and consular missions and representatives.

28. All States should take all necessary steps at the national and international levels to prevent acts of violence against diplomatic and consular missions and representatives.

29. Mr. MARTENS (Germany), speaking in exercise of the right of reply on behalf of the European Union and Austria, said that at the previous meeting the representative of Iran had referred to a sentence contained in the European Union and Austrian statement on the agenda item. In that connection, it was his understanding that the United Kingdom delegation would make a statement.

30. Ms. WILMSHURST (United Kingdom), speaking in exercise of the right of reply, said that at the previous meeting the representative of Iran had raised some questions with regard to incidents mentioned in the statement made by Germany on behalf of the European Union and Austria. The incidents in question had consisted of two attacks on the British Embassy in Tehran. The first had occurred at 11.30 p.m. on 5 January 1994 when a petrol bomb had been thrown into the Embassy compound and had exploded near the main door of the Embassy building. The second incident had occurred at 11.40 p.m. on 9 January 1994 when unidentified assailants had fired a number of gunshots at the Embassy building, seven of which had penetrated windows on the upper floors and lodged in office walls. Those incidents had been reported to the Iranian authorities at the time and had been duly noted by them.

31. The Iranian representative had also referred to an incident at Kensington Town Hall, London, where a meeting arranged by the Iranian Embassy had been disrupted and one man had suffered minor injuries. The London incident had been reported by the United Kingdom to the Secretary-General, as reflected in section 14, paragraphs 14 to 17, of document A/49/295. The incidents in Tehran had not been reported by the United Kingdom to the Secretary-General as it had been her Government's practice to report only those which occurred in England.

32. The CHAIRMAN said that the Committee had concluded its consideration of the item.

AGENDA ITEM 157: QUESTION OF CRITERIA FOR THE GRANTING OF OBSERVER STATUS IN THE GENERAL ASSEMBLY (A/49/231)

33. Mr. ROSENSTOCK (United States of America) said that his delegation had requested the inclusion of the item in the agenda of the forty-ninth session of the General Assembly because certain issues needing clarification had been raised and such clarification could be provided by agreement on criteria. The practice of admitting observers to the General Assembly was long-standing and, by and large, had caused no problems. As a rule, the status had been reserved for States and intergovernmental organizations.

34. Recent developments had, however, created the risk that the United Nations might become inundated with non-governmental organizations having observer status. Those organizations were entitled to status in the Organization, pursuant to Article 71 of the Charter of the United Nations and in accordance with the procedure laid down in Economic and Social Council resolution 1298 (XIV). Where observer status was concerned, however, it should first be determined whether the granting of authority to the Economic and Social Council under Article 71 of the Charter had expressio unius est exclusio alterius implications.

35. In addition, should observer status be granted to bodies other than States or intergovernmental organizations, it should be decided whether they could be accorded the privileges currently extended to observers without impairing the effective functioning of the General Assembly.

36. The new international order resulting from such developments as the ending of the cold war, the dismantling of apartheid in South Africa and the general demise of colonialism meant that the issue could be dealt with as a mere housekeeping matter, to be addressed by a working group at the current session of the General Assembly. The United States believed that the exercise would be neither complicated nor particularly prolonged and was willing to give it its full cooperation.

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (A/49/33)

37. Mr. MUTHAURA (Kenya), Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the report of the Special Committee contained in document A/49/33 said that the development of the Special Committee from an ad hoc body at the time of its inception in the mid-1970s to a permanent feature of the Organization demonstrated the universal recognition which it had been accorded. In 1994, the Committee had received and granted 43 requests for observer status and, following the procedure established in 1993, had invited intergovernmental organizations to participate in the plenary meetings at which the question of cooperation between the United Nations and regional organizations in the maintenance of international peace and security had been discussed.

38. During the general debate at the Special Committee's 1994 session, many delegations had noted the encouraging developments in the international order, opening up great possibilities for unanimity which the Committee should take advantage of in seeking new ways of enhancing the effectiveness of the United Nations.

39. Through its Working Group, the Special Committee had analysed in depth a revised version of the working paper originally submitted by the Russian Federation in 1992, relating to the question of the maintenance of international peace and security. That analysis had led to the consensus adoption of the text of a draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, para. 89), which stressed the role assigned by the Charter to such regional arrangements in the settlement of local disputes and in enforcement action under the authority of the Security Council. In addition, the draft recalled that cooperation between regional arrangements or agencies and the United Nations could include the exchange of information and holding of consultations, participation in the work of United Nations organs and the provision of personnel, material and other assistance. It addressed a number of recommendations to States with a view to increasing efforts at the regional level for the maintenance of international peace and security and encouraged the regional arrangements and agencies themselves to consider ways and means for promoting closer cooperation with the United Nations and to consider the possibility of establishing and training groups of military observers, fact-finding missions and contingents of peace-keeping forces to be used in coordination with the United Nations and under the authority or with the authorization of the Security Council, in accordance with the Charter. He hoped that the Committee would approve the draft and recommend its adoption to the General Assembly, thus usefully supplementing the list of valuable documents previously originating in the Special Committee.

40. The Special Committee had considered another working paper, sponsored by 21 delegations, on the maintenance of international peace and security (A/49/33, para. 52). While most representatives had agreed on the topical nature of the issue, in view of the Security Council's increasingly frequent resort to the application of sanctions and the growing number of adversely affected third States, some had felt that it called for institutional remedies while others had pointed out that, under Article 50 of the Charter, such adversely affected States should consult the Security Council with regard to a solution of those problems, and they had therefore questioned the usefulness of creating new machinery. It had been suggested by some representatives that the Security Council should undertake a study of the issue, but others had opposed that suggestion on the grounds that the Security Council could not be subjected to any conditions not provided for in the Charter.

41. Finally, the Committee had recommended that the Secretary-General should be invited to submit, before the Committee's 1995 session, a report to supplement the one contained in document A/48/573-S/26705, on the question of the implementation of the provisions of the Charter, including Article 50, related

to the special economic problems confronting third States and arising from the imposition of sanctions mandated under Chapter VII of the Charter.

42. With regard to the same issue, the Special Committee had considered the working paper submitted by Cuba, entitled "Strengthening of the role of the Organization and enhancement of its efficiency", which had subsequently been revised by its sponsor as indicated in paragraph 94 of the Special Committee's report (A/49/33). During the debate on the topic, some members had pointed out that consideration of those issues in the Special Committee would merely duplicate the work of the Open-ended Working Group established by General Assembly resolution 48/26.

43. In the same context, the Special Committee had also considered a working paper submitted by the Russian Federation, entitled "New issues for consideration in the Special Committee", but the discussion had been brief and inconclusive.

44. With regard to the peaceful settlement of disputes, the Working Group had considered the revised version of a proposal submitted by Guatemala at the 1993 session, with an appended set of draft articles entitled "United Nations Model Rules for the Conciliation of Disputes Between States" (A/49/33, para. 105). Guatemala's initiative was designed to achieve the fuller utilization of the potential of the Charter in the area of the peaceful settlement and prevention of disputes, taking account of current realities, and it was broadly welcomed by other representatives, who viewed the draft articles as a timely contribution to the United Nations Decade of International Law.

45. Lastly, the Special Committee had considered a proposal submitted by Sierra Leone under the title "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" (A/49/33, para. 109), which was also broadly welcomed by the Committee although there was some divergence as to the priority which it should be accorded.

46. In conclusion, he expressed satisfaction with the Special Committee's progress in dealing with the complex and important items on its agenda and expressed his confidence that the forthcoming debate in the Sixth Committee would considerably assist the Special Committee in the further performance of its mandate.

AGENDA ITEM 143: CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY (A/C.6/49/L.2)

47. Mr. CALERO-RODRIGUES (Brazil), introducing his conclusions on the consultations on the agenda item contained in document A/C.6/49/L.2, said that during the previous two years, the Working Group had considered a possible text on the issue for submission to the Committee but in 1994 it had taken a somewhat different approach, concentrating on the issues with a view to achieving a closer convergence of views among members. While the divergent positions had not been fully reconciled, considerable progress had been achieved and five issues of substance had been identified, namely, the concept of a State for

purposes of immunity in particular, the question of the status to be given to the constituent units of a Federal State; the concept of a State enterprise or other State entity in relation to commercial transactions; criteria for determining whether or not a contract was of a commercial character; contracts of employment; and measures of constraint against State property.

48. At the end of the debate on each issue he had tried to identify ways of reconciling differences between members' positions, and the document under consideration set forth his own assessment of such possibilities for convergence. He hoped the document would assist representatives, during their consideration of the item, in deciding whether or not to convene a conference of plenipotentiaries to conclude a convention, as suggested by the International Law Commission (ILC), in accordance with General Assembly decision 48/413.

The meeting rose at 11.50 a.m.